

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: Diana Buchanan :
: Case No. 22-31333
: Chapter 13
: Judge Humphrey
Debtor(s). :

MOTION TO MODIFY CHAPTER 13 PLAN

Pursuant to 11 U.S.C. § 1329 _____ Diana Buchanan _____ (the “Debtor,” whether individually or collectively) moves the court for an order modifying the Chapter 13 Plan (Doc. 26) as follows:

Memorandum in Support

(1) Debtor’s reason(s) for requesting the following modification(s) **(If a sufficient reason is not provided, the proposed modification may not be approved.):**

Debtor filed an amended plan providing 5 % rate of interest on Debtors mortgage arrears. Mortgage Lender filed a claim for \$ 54,446.45 as the loan has matured and the claim includes interest until the plan end date. Dehtor seeks to amend the plan to reduce to zero the interst rate payment to the mortgage lender as this would be duplicative interest. The Mortgage Lender has already added interest to the claim for the length of the plan. The cost difference between the claim as filed and the plan payment is minimal so the plan payment will not be adjusted.

Note: If the proposed modification decreases the dividend, extends the plan length, or temporarily suspends payments, include a detailed explanation of any changes in the Debtor’s financial situation that make a modification necessary. Local Bankruptcy Rule (“LBR”) 3015-2(b)(3) and (e).

(2) Debtor’s Chapter 13 Plan (the “Plan”) was confirmed on: January 25, 2023 (Doc. 29).

☒ Plan has not been previously modified.

☐ Plan has been previously modified.

CHANGES IN DEBTOR’S FINANCIAL CIRCUMSTANCES SINCE LAST PLAN

(3) The Debtor’s monthly income and/or expenses have changed as follows:

☒ no change in income and expenses.

☐ income has increased or decreased from \$ _____ to \$ _____.

☐ expenses have increased or decreased from \$ _____ to \$ _____.

Note: Explain any significant changes in the Debtor’s income and expenses in paragraph 1. The court may not approve the modification if the Debtor’s expenses have substantially increased without adequate explanation.

PLAN PAYMENTS

(4) The Debtor proposes to change the current monthly plan payment as follows:

- ☒ no change in monthly payment.
- ☐ change monthly payment from \$ _____ to \$ _____.
- ☐ temporarily reduce payments to \$ _____ for the months of _____.
- ☐ suspend payments for the months of _____.
- ☐ modification related to a step payment _____.

Note: If Debtor proposes a permanent change to the monthly plan payment, Debtor must file amended Schedules I and J, pursuant to LBR 3015-2(b)(4). Any amendments to Schedules I and J must be filed separately and must be accompanied by a signed *Declaration About an Individual Debtor's Schedules* (Official Form 106dec).¹ LBR 1009-1(a)(3) and (d).

PRIORITY CLAIMS AND SECURED CLAIMS

(5) The Debtor proposes to modify the treatment of the following secured and/or priority claim(s):

- ☐ no changes.
- ☒ proposed changes – attachment included

Note: Any creditors listed on the attachment are directly affected and must be served with a copy of the modification. Include the reason(s) for any changes in paragraph 1.

DIVIDEND PAID TO NON-PRIORITY UNSECURED CREDITORS

(6) The Debtor proposes to change the dividend paid to non-priority unsecured creditors as follows:

- ☒ no change in dividend.
- ☐ change percentage plan from _____ % to _____ %.
- ☐ change pot plan from \$ _____ to \$ _____.
- ☐ other change to the dividend _____.

Note: If the Debtor proposes to decrease the dividend paid to unsecured creditors, this motion must be served on all creditors and parties in interest.

PLAN LENGTH

(7) The Debtor proposes to change the current maximum payment period as follows:

- ☒ no change in plan length.
- ☐ change plan length from _____ months to _____ months.

Note: If increasing the plan length, this motion must be served on all creditors and parties in interest. If the Debtor is above median income, the payment period must be 60 months unless the dividend to unsecured creditors is 100%.

¹ Amended Schedules must be verified or contain an unsworn declaration as required by 28 U.S.C. § 1746. Federal Rule of Bankruptcy Procedure 1008.

NONSTANDARD MODIFICATIONS ☐ N/A

(8) The Debtor proposes to modify the plan to:

(9) **The effective date of a modification to the plan is the date of the entry of the order approving the modification.** For calculation purposes, the Trustee will use the date the motion is filed.

(10) The plan, if modified, will complete within (60) months of the commencement of the case. 11 U.S.C. § 1329(c).

(11) The Debtor is responsible for any increase in the Payroll Deduction, TFS, or Direct Payment until such payment is adjusted.

(12) The Debtor's attorney must file a separate application for any additional attorney fees as provided by Local Bankruptcy Rule 2016-1(b)(3).

Wherefore, the Debtor requests that the Court approve the modification as set forth above.

/s/ Diana Buchanon
Debtor

/s/ _____
Joint Debtor

Respectfully submitted,

/s/ R. Dean Snyder
R. Dean Snyder (0039921)
Attorney At Law
5127 Pleasant Ave
Fairfield, Ohio 45014
513-868-1500
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Notice of Motion

Debtor has filed a Motion to Modify Chapter 13 Plan.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the Motion**, you must file with the court a response explaining your position by mailing your response by first class mail to:

United States Bankruptcy Court, 120 W. Third Street, Dayton, Ohio 45402

OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF system or by 2) first class mail to:

Diana Buchanon, 3220 Cornell Drive, Dayton, Ohio 45406

R. Dean Snyder 5127 Pleasant Ave Fairfield, Ohio 45014

John G. Jansing, Chapter 13 Trustee, 409 E. Monument Ave., Suite 410, Dayton, Ohio 45402

Office of the U.S. Trustee, 170 North High St., Suite 200, Columbus, Oh 43215

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief without further hearing or notice.

Certificate of Service

I hereby certify that a copy of the foregoing Motion to Modify Plan was served **electronically** on the date of filing through the Court's ECF System on all ECF participants registered in this case at the email address registered with the Court and by **first class mail** on 04/10/2023 addressed to:

John Jansing, Trustee

Matthew Murtland, Deutsche Bank Trust Company

by NONE on _____ addressed to:

and the creditors and parties in interest shown on the _____ attached
Declaration of Mailing and Certificate of Service on 04/10/2023.

/s/ R. Dean Snyder

MODIFICATION OF SECURED AND PRIORITY CLAIMS

Name of Creditor/Type	Treatment
PHH Mortgage <input checked="" type="checkbox"/> secured <input type="checkbox"/> priority (§ 507)	Current: Paragraph 5.2.1 PHH Mortgage \$ 47,353.13 balance at 5 % interest
	Proposed: Paragraph 5.2.1 PHH Mortgage \$ 54,446.45 balance at 0 % interest

Name of Creditor/Type	Treatment
 <input type="checkbox"/> secured <input type="checkbox"/> priority (§ 507)	Current:
	Proposed:

Name of Creditor/Type	Treatment
 <input type="checkbox"/> secured <input type="checkbox"/> priority (§ 507)	Current:
	Proposed:

Name of Creditor/Type	Treatment
 <input type="checkbox"/> secured <input type="checkbox"/> priority (§ 507)	Current:
	Proposed: